

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CONCESSION CONTRACT

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GIFT SHOP AND CAFE SERVICE
at
Great Basin National Park

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CONTRACT NO. CC-GRBA001-98

COVERING THE PERIOD

January 1, 1998 THROUGH December 31, 2005

CONCESSION CONTRACT
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EXHIBITS

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CORPORATION

THIS CONTRACT made and entered into by and between the United States of America, acting in this matter by the Secretary of the Interior, through the Director of the National Park Service, and the Regional Director of the Pacific West Region, hereinafter referred to as the "Secretary," and Ms. Tonia Harvey, an individual of the State of Nevada doing business as Lehman Caves Gift & Cafe, hereinafter referred to as the "Concessioner":

W I T N E S S E T H:

WHEREAS, The Great Basin National Park (hereinafter referred to as the "Area") is administered by the Secretary to conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the public enjoyment of the same in such manner as will leave such Area unimpaired for the enjoyment of future generations; and

WHEREAS, the accomplishment of these purposes requires that services that have been determined to be necessary and appropriate for the public use and enjoyment of the Area be provided for the public visiting the Area; and

WHEREAS, the United States has not itself provided all such necessary services and desires the Concessioner to establish and operate certain of them at reasonable rates under the supervision and regulation of the Secretary; and

WHEREAS, pursuant to law the Secretary is required to exercise his authority hereunder in a manner consistent with a reasonable opportunity by the Concessioner to realize a profit on the operations conducted hereunder as a whole commensurate with the capital invested and the obligations assumed:

NOW, THEREFORE, pursuant to the authority contained in the Acts of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and October 9, 1965 (79 Stat. 969; 16 U.S.C. 20 et seq.), and other laws supplemental thereto and amendatory thereof, the Secretary and the Concessioner agree as follows:

SEC. 1. TERM OF CONTRACT (a) This CONTRACT shall be for the term of EIGHT (8) years from January 1, 1998 through December 31, 2005.

(b) The Concessioner shall accomplish improvement projects as may be funded from established account(s).

1 SEC. 2. ACCOMMODATIONS, FACILITIES AND SERVICES (a) The Secretary hereby
2 requires and authorizes the Concessioner during the term of this CONTRACT to
3 provide services for the public within the Area, as follows:
4

- 5 - Operate within the south portion of the visitor center a cafe and
6 gift shop approximately 1400 square feet. Additional space of
7 approximately 500 square feet is available for storage.
8
- 9 - Seating consist of table and counter accommodation. Seating for
10 approximately 24 people at tables and 6 person at the counter
11 space.
12
- 13 - Cafe type of food, tasty and affordable hot and cold food items
14 for sale to the public visiting the Area.
15
- 16 - The sale of hot and cold beverages. No alcoholic beverages will
17 be sold or served.
18
- 19 - Sale of merchandise and souvenirs appropriate to enhance the
20 visitor experience and appreciation of the cultural and natural
21 resources of the Area.
22

23 (b) The Secretary reserves the right to determine and control the nature,
24 type and quality of the merchandise and services described herein to be sold
25 or furnished by the Concessioner within the Area.
26

27 (c) This CONTRACT and the administration of it by the Secretary shall be
28 subject to the laws of Congress governing the Area and rules, regulations and
29 policies promulgated thereunder, whether now in force or hereafter enacted or
30 promulgated, including but not limited to United States Public Health Service
31 requirements. The Concessioner must also comply with applicable requirements
32 promulgated by the United States Department of Labor's Occupational Safety and
33 Health Act of 1970 (OSHA) and those provisions outlined in the National Park
34 Service's Safety and Occupational Health Policy associated with visitor safety
35 and health.
36

37 (d) In order to implement these requirements the Secretary, acting through
38 the Superintendent and in consultation with the Concessioner, shall establish
39 and revise as circumstances warrant, specific operating requirements in the
40 form of an Operating Plan which shall be adhered to by the Concessioner. The
41 initial Operating Plan is attached hereto as Exhibit "G" and is incorporated
42 herein by this reference. Modifications made to the initial Operating Plan by
43 the Secretary shall not be inconsistent with the terms and conditions of the
44 main body of this CONTRACT.
45

1 (e) All printed material given to the public, including promotional
2 material, must be approved in writing by the Superintendent prior to use. All
3 such material will identify the operation as "...is an authorized Concessioner
4 of the National Park Service, Department of the Interior."

5
6 (f) The Concessioner shall develop a comprehensive, written safety and
7 occupational health program for its concession operation in accordance with
8 National Park Service "Concessioner Risk Management Program" Guidelines.
9

10 SEC. 3. PLANT, PERSONNEL AND RATES (a) The Concessioner shall maintain and
11 operate the services described above to such extent and in such manner as the
12 Secretary may deem satisfactory, and shall provide the plant, personnel,
13 equipment, goods, and commodities necessary therefor, provided that the
14 Concessioner shall not be required to make investments inconsistent with a
15 reasonable opportunity to realize a profit on its operations under this
16 CONTRACT commensurate with the capital invested and the obligations assumed.
17

18
19 (b)(1) The Concessioner is required to have its employees who come into
20 direct contact with the public, so far as practicable, to wear a uniform or
21 badge by which they may be known and distinguished as the employees of the
22 Concessioner.
23

24 (b)(2) The Concessioner shall establish pre-employment screening, hiring,
25 training, employment, termination and other policies and procedures for the
26 purpose of providing services to park visitors through its employees in an
27 efficient and effective manner and for the purpose of maintaining a healthful,
28 law abiding, and safe working environment for its employees. The Concessioner
29 shall require its employees to be hospitable and to exercise courtesy and
30 consideration in their relations with the public.
31

32 (b)(3) The Concessioner shall hire, to the greatest extent possible, people
33 of integrity who are both interested in serving the public in a national park
34 environment and interested in being positive contributors to the Area's
35 purposes. The Concessioner shall conduct appropriate background reviews of
36 applicants for employment to assure that they conform to the hiring policies
37 established by the Concessioner.
38

39 (b)(4) The Concessioner shall review the conduct of any of its employees
40 whose action or activities are considered by the Concessioner or the Secretary
41 to be inconsistent with the proper administration of the Area and enjoyment
42 and protection of visitors and shall take such actions as are necessary to
43 fully correct the situation.
44
45

1 (b)(5) The Concessioner will maintain, to the greatest extent possible, a
2 drug-free workplace environment. The Concessioner shall conduct educational
3 program(s) for its employees to deter substance abuse and alcohol abuse.
4 Those employees identified in the Operating Plan as being in safety-sensitive
5 positions will be required to participate in periodic drug testing as part of
6 the Concessioners drug-free workplace program. Illegal drug possession, sale,
7 or use, should it occur, will be promptly reported by the Concessioner to Area
8 authorities.

9
10 (b)(6) The Concessioner shall, in addition to other laws and regulations
11 which may be applicable to its operations, comply with the following
12 applicable requirements:

13
14 (i) Title VII of the Civil Rights Act of 1964, as well as Executive
15 Order No. 11246 of September 24, 1965, as amended by Executive Order No.
16 11375 of October 13, 1967;

17
18 (ii) Title V, Sections 503 and 504 of the Rehabilitation Act of
19 September 26, 1973, P.L. 93-112 as amended in 1978;

20
21 (iii) 41 CFR Part 60-2 which prescribes affirmative action requirements
22 for contractors and subcontractors;

23
24 (iv) the Age Discrimination in Employment Act of December 15, 1967
25 (P.L. 90-202), as amended by (P.L. 95-256) of April 6, 1978; and

26
27 (v) the Architectural Barriers Act of 1968 (P.L. 90-480).

28
29 (b)(7) The Concessioner shall also comply with regulations heretofore or
30 hereafter promulgated, relating to nondiscrimination in employment and
31 providing accessible facilities and services to the public including those set
32 forth in Exhibit "A" attached hereto and incorporated herein by this
33 reference.

34
35 (c)(1) All rates and prices charged to the public by the Concessioner for
36 accommodations, services or goods furnished or sold shall be subject to
37 regulation and approval by the Secretary. Reasonableness of rates and prices
38 will be judged generally by comparison with those currently charged for
39 comparable accommodations, services or goods furnished or sold outside of the
40 areas administered by the National Park Service under similar conditions, with
41 due allowance for length of season, provision for peak loads, accessibility,
42 availability and cost of labor and materials, type of patronage, and other
43 conditions customarily considered in determining charges, but due regard may
44 also be given to such other factors as the Secretary may deem significant.
45

1 (c)(2) The Concessioner shall require its employees to observe a strict
2 impartiality as to rates and services in all circumstances. The Concessioner
3 may, subject to the prior written approval of the Secretary, grant
4 complimentary or reduced rates under such circumstances as are customary in
5 businesses of the character conducted hereunder.
6

7
8 SEC. 4. GOVERNMENT LAND AND IMPROVEMENTS (a)(1) The Secretary hereby
9 assigns for use by the Concessioner during the term of this CONTRACT, certain
10 parcels of land, if any (as described in Exhibit "B" hereto), and Government
11 Improvements, if any (as described in Exhibit "C" hereto), appropriate to
12 conduct operations hereunder.
13

14 (a)(2) The Secretary reserves the right to withdraw such assignments or parts
15 thereof at any time during the term of this CONTRACT if, in his or her
16 judgement,
17

18 (i) such withdrawal is for the purpose of enhancing or protecting Area
19 resources or visitor enjoyment or safety, or
20

21 (ii) the operations utilizing such assigned lands or buildings are
22 terminated pursuant to Section 12 hereof.
23

24 (a)(3) Any permanent withdrawal of assigned lands or Government Improvements
25 which are essential for conducting the operation authorized hereunder will be
26 considered by the Secretary as a termination of this CONTRACT pursuant to
27 Section 12 hereof. The Secretary shall compensate the Concessioner for any
28 Possessory Interest it may have in such properties permanently withdrawn
29 pursuant to Section 13 hereof.
30

31 (b)(1) "Government Improvements" as used herein, means the buildings,
32 structures, utility systems, fixtures, equipment, and other improvements
33 affixed to or resting upon the lands assigned hereunder in such manner as to
34 be part of the realty, if any, constructed or acquired by the Secretary and
35 assigned to the Concessioner by the Secretary for the purposes of this
36 CONTRACT.
37

38 (b)(2) The Concessioner shall have a Possessory Interest to the extent
39 provided elsewhere in this CONTRACT in capital improvements (as hereinafter
40 defined) it makes to Government Improvements (excluding improvements made from
41 funds from Section 5 reserve account(s)) with the written permission of the
42 Secretary. In the event that such Possessory Interest is acquired by the
43 Secretary or a successor concessioner at any time, the Concessioner will be
44 compensated for such Possessory Interest pursuant to Section 13 hereof.
45

1 (c) The Secretary shall have the right at any time to enter upon the lands
2 and improvements utilized by the Concessioner hereunder for any purpose he or
3 she may deem reasonably necessary for the administration of the Area.
4

5 (d) The Concessioner may construct or install upon assigned lands such
6 buildings, structures, and other improvements as are necessary for operations
7 hereunder, subject to the prior written approval by the Secretary of the
8 location, plans, and specifications thereof. The Secretary may prescribe the
9 form and contents of the application for such approval. The desirability of
10 any project as well as the location, plans and specifications thereof will be
11 reviewed in accordance with applicable provisions of the National
12 Environmental Policy Act of 1969 and the National Historic Preservation Act of
13 1966, among other requirements.
14

15 (e) If, during the term of this CONTRACT, a Government Improvement requires
16 capital improvement (major repairs and/or improvements that serve to prolong
17 the life of the Government Improvement to an extent requiring capital
18 investment for major repair), such capital improvements shall be made by the
19 Concessioner at its expense if consistent with a reasonable opportunity for
20 the Concessioner to realize a profit as described above. Where capital
21 improvements to other Government facilities which directly support the
22 Concessioner's operations under this CONTRACT are determined by the Secretary
23 to be necessary for the accommodation of Area visitors, such improvements
24 shall be made by the Concessioner at its expense unless the Secretary
25 determines that expenditures for such improvements are inconsistent with a
26 reasonable opportunity for the Concessioner to realize a profit as described
27 above.
28

29 (f) Federal law prohibits the excavation, removal, damage, alteration, or
30 defacement of any archeological resource on Federal lands. (See Archeological
31 Resource Protection Act of 1979 (ARPA, Public Law 95-96).) The Concessioner
32 shall control the actions of its employees and contractors within the assigned
33 lands to ensure that any protected sites and archeological resources are not
34 disturbed or damaged. Discoveries of such resources by Concessioner employees
35 or contractors are to be reported to the Superintendent. It is also the
36 obligation of the Concessioner to cease work or other disturbance in the event
37 of a newly discovered archeological site until further authorization from the
38 Secretary to continue work is obtained.
39

40
41 SEC. 5. MAINTENANCE (a) Subject to Section 4(e) hereof, the Concessioner
42 will physically maintain and repair all facilities (both Government
43 Improvements and Concessioner Improvements) used in operations under this
44 CONTRACT, including maintenance of assigned lands and all necessary
45 housekeeping activities associated with such operations, to the satisfaction
46 of the Secretary.

1 (b) In order to implement these requirements, the Secretary, acting through
2 the Superintendent, shall undertake appropriate inspections, and, in
3 consultation with the Concessioner, shall establish and revise as
4 circumstances warrant a Maintenance Plan consisting of specific maintenance
5 requirements which shall be adhered to by the Concessioner. The initial
6 Maintenance Plan is attached hereto as Exhibit "F" and is incorporated herein
7 by this reference. Modifications made to the initial Maintenance Plan by the
8 Secretary shall not be inconsistent with the terms and conditions of the main
9 body of this CONTRACT.

10
11 (c) Buildings and facilities that are determined by the Secretary to be
12 eligible for consideration to be placed on, or that have been placed on the
13 National Register of Historic Places shall be maintained in accordance with
14 the Secretary of the Interior's Standards for Historic Preservation Projects.

15
16 (d)(1) While the Concessioner has non-exclusive rights to use certain
17 government improvements the impacts from the Concessioner's operations require
18 that these facilities and support activities be maintained. As part of the
19 Concessioner's use of the Area and government owned improvements, a commitment
20 will be made to the maintenance of facilities, walkways, storage areas and
21 parking areas which are directly associated with the Concessioner's services
22 authorized and/or required under this CONTRACT. The purpose is to defray
23 costs of maintenance, repair and/or upkeep of government improvements and
24 facilities used by the Concessioner.

25
26 (d)(2) To ensure that revenues will be available to carry out the necessary
27 maintenance and support activities required by the Superintendent, a reserve
28 account shall be established by the Concessioner. The amount of each monthly
29 deposit due shall be based upon the sum of the accumulated annual gross
30 receipts, as defined in Section 9(d)(1), as of the end of the prior month.
31 ONE AND SIX TENTHS OF ONE PERCENT (1.6%) of the accumulated annual gross
32 receipts of any amount in excess of \$100,000 shall equal the monthly deposit
33 due. The effect of the cumulative calculation shall, on an annual basis, be a
34 sum equal to ONE AND SIX TENTHS OF ONE PERCENT (1.6%) of any amount in excess
35 of \$100,000 of annual gross receipts, plus FIVE HUNDRED DOLLARS (\$500.00) per
36 annum due in two (2) payments of TWO HUNDRED AND FIFTY DOLLARS (\$250.00). The
37 first payment payable on or before June 30th, the second payment payable on or
38 before August 31st, plus an annual payment of TWO THOUSAND AND ONE HUNDRED
39 DOLLARS (\$2,100) due on or before September 30th.

40
41 (d)(3) This reserve account shall be maintained by the Concessioner in a
42 Federally insured institution in an interest bearing account. Monthly
43 statements on the reserve shall be forwarded to the Area's Administrative
44 Officer on a monthly basis. Interest earned on reserve balances shall be part
45 of the reserve when earned and shall be used only for the purposes as defined
46 in this CONTRACT.

1 (d)(4) All payments due, shall be deposit to the reserve account as defined
2 in Section 9(b). Each operating month and shall include the specified
3 percentage(s) of gross receipts for the preceding month.
4

5 (d)(5) Withdrawals from the reserve will be made by the Concessioner solely
6 for the purposes of the account and only for the projects approved by the
7 written authorization of the Superintendent. The reserve is not to be used
8 for the payment of routine maintenance and operating expenses of the
9 Concessioner. Additionally, the reserve is not to be used for maintenance of
10 government property not assigned to the Concessioner or for government
11 projects or activities not directly related to the provision of the involved
12 Concessioner's services.
13

14 (d)(6) It is agreed by the parties hereto, that there is no possessory
15 interest accrued by the Concessioner for improvements made by this reserve.
16 Funds from the reserve are not to be used to pay or otherwise reimburse or
17 credit Concessioner annual operating costs.
18

19 (d)(7) The Concessioner shall submit annually, as part of its Annual
20 Financial Report submittal, a statement reflecting the funds reserved and the
21 projects accomplished during the preceding accounting year. The statement
22 shall reflect all deposits, all withdrawals and interest earned.
23

24 (e)(1) For any payment called for in this CONTRACT or that may otherwise
25 become due under its provisions, an interest charge will be assessed on
26 overdue amounts as defined in Section 9(c).
27

28 (e)(2) All payments consisting of \$10,000 or more, shall be deposited
29 electronically by the Concessioner using the Treasury Financial Communications
30 System.
31

32 (f) Upon termination or expiration of this CONTRACT, the balance remaining in
33 the reserve shall, within FIFTEEN (15) days after the last day of the
34 Concessioner's operation, be spent for the purposes of the reserve, or be
35 transferred to a successor concessioner without compensation, or, if those
36 purposes are not possible, will be deposited to the benefit of the United
37 States Treasury. These options will be exercised in accordance with written
38 instructions as provided by the Superintendent of the Area.
39

40
41 SEC. 6. CONCESSIONER'S IMPROVEMENTS (a)(1) "Concessioner Improvements,"
42 as used herein, means buildings, structures, fixtures, equipment, and other
43 improvements, affixed to or resting upon the lands assigned hereunder in such
44 manner as to be a part of the realty, provided by the Concessioner for the
45 purposes of this CONTRACT (excluding improvements made to Government

1 Improvements and improvements made from funds in Section 5 account(s)), as
2 follows:

3
4 (i) such improvements upon the lands assigned at the date hereof as
5 described in Exhibit "D" hereto; and

6
7 (ii) all such improvements hereafter constructed upon, affixed to, or
8 made to the lands assigned to the Concessioner with the written consent
9 of the Secretary.

10
11 (a)(2) Concessioner Improvements do not include any interest in the land upon
12 which the improvements are located. Concessioner Improvements do not include
13 any interest in maintenance or other improvements to Government Improvements
14 or improvements made from the account(s) established by Section 5 hereof.

15
16 (a)(3) Any salvage resulting from the authorized removal, severance or
17 demolition of a Concessioner Improvement or any part thereof shall be the
18 property of the Concessioner.

19
20 (a)(4) In the event that a Concessioner Improvement is removed, abandoned,
21 demolished, or substantially destroyed and no other improvement is constructed
22 on the site, the Concessioner, at its expense, shall promptly, upon the
23 request of the Secretary, restore the site as nearly as practicable to its
24 original condition.

25
26 (b)(1) The Concessioner shall have a Possessory Interest, as defined herein,
27 in Concessioner Improvements to the extent provided by this CONTRACT.

28
29 (b)(2) Possessory Interest in Concessioner Improvements or Government
30 Improvements shall not be extinguished by the expiration or other termination
31 of this CONTRACT, and may not be terminated or taken for public use without
32 just compensation as determined in accordance with Section 13. Performance of
33 the obligations assumed by the Secretary under Section 13 hereof shall
34 constitute just compensation with respect to the taking of Possessory
35 Interest.

36
37 (b)(3) Possessory Interest, as the term is used in this CONTRACT, shall
38 consist of all incidents of ownership in capital improvements made by the
39 Concessioner, except legal title which shall be vested in the United States
40 and subject to other limitations as set forth in this CONTRACT. Particularly,
41 among other matters, the existence of Possessory Interest shall not be
42 construed to include or imply any authority, privilege, or right to operate or
43 engage in any business or other activity, and the use or enjoyment of any
44 structure, fixture or improvement in which the Concessioner has a Possessory
45 Interest shall be wholly subject to the applicable provisions of this CONTRACT
46 and to the laws and regulations relating to the Area.

1
2 SEC. 7. UTILITIES (a) The Secretary may furnish utilities to the
3 Concessioner for use in connection with the operations authorized under this
4 CONTRACT when available at reasonable rates to be fixed by the Secretary in
5 his discretion. Such rates which shall at least equal the actual cost of
6 providing the utility or service unless a reduced rate is provided for in an
7 established policy of the Secretary in effect at the time of billing.

8
9 (b) Should the Secretary not provide such utilities, the Concessioner shall,
10 with the written approval of the Secretary and under such requirements as the
11 Secretary shall prescribe, secure necessary utilities at its own expense from
12 sources outside the Area or shall install the same within the Area with the
13 written permission of the Secretary, subject to the following conditions:

14
15 (i) Any water rights deemed necessary by the Concessioner for use of
16 water on Federal lands shall be acquired at its expense in accordance
17 with applicable State procedures and law. Such water rights, upon
18 expiration or termination of this CONTRACT for any reason shall be
19 assigned to and become the property of the United States without
20 compensation;

21
22 (ii) Any utility service provided by the Concessioner under this
23 Section shall, if requested by the Secretary, be furnished to the
24 Secretary to such extent as will not unreasonably restrict anticipated
25 use by the Concessioner. The rate per unit charged the Secretary for
26 such service shall be approximately the average cost per unit of
27 providing such service; and

28
29 (iii) All appliances and machinery to be used in connection with the
30 privileges granted in this Section, as well as the plans for location
31 and installation of such appliances and machinery, shall first be
32 approved by the Secretary.

33
34
35 SEC. 8. ACCOUNTING RECORDS AND REPORTS (a) The Concessioner shall maintain
36 an accounting system whereby its accounts can be readily identified with its
37 system of accounts classification.

38
39 (b) The Concessioner shall submit annually as soon as possible but not later
40 than Sixty (60) days after the close of the Concessioner's fiscal year a
41 financial statement for the preceding year or portion of a year as prescribed
42 by the Secretary, and such other reports and data, including, but not limited
43 to, operations information, as may be required by the Secretary. Such
44 information is subject to public release to the extent authorized by law or
45 established policies and procedures of the Secretary. The Concessioner's

1 system of accounts classification shall be directly related to the
2 Concessioner Annual Report Form issued by the Secretary.
3

4 (c) If the annual gross receipts of the Concessioner are in excess of
5 \$1,000,000, the financial statements shall be audited by an independent
6 certified public accountant or by an independent licensed public accountant
7 certified or licensed by a regulatory authority of a State or other political
8 subdivision of the United States on or before December 31, 1970, in accordance
9 with the auditing standards and procedures promulgated by the American
10 Institute of Certified Public Accountants.
11

12 (d) If annual gross receipts are between \$250,000, and \$1,000,000, the
13 financial statements shall be reviewed by an independent certified public
14 accountant or by a licensed public accountant certified or licensed by a
15 regulatory authority of a State or other political subdivision of the United
16 States on or before December 31, 1970, in accordance with the auditing
17 standards and procedures promulgated by the American Institute of Certified
18 Public Accountants.
19

20 (e) If annual gross receipts are less than \$250,000, the financial statements
21 may be prepared without involvement by an independent certified or licensed
22 public accountant, unless otherwise directed by the Secretary.
23

24 (f) If the Concessioner is required to have its annual financial statement
25 (Concessioner Annual Financial Report) audited or reviewed, the Concessioner
26 must use the accrual accounting method. In addition, it must include in its
27 annual financial statement (Concessioner Annual Financial Report) a footnote
28 that reconciles its annual financial statement to its Federal income tax
29 returns.
30

31 (g) The Secretary and Comptroller General of the United States, or any of
32 their duly authorized representatives, shall at any time up until the
33 expiration of five (5) calendar years after the expiration of this CONTRACT,
34 have access to and the right to examine any of the Concessioner's pertinent
35 books, documents, papers, and records, including Federal and State income tax
36 returns (collectively "documents"), and such documents of any subconcessioner
37 related to this CONTRACT, and, such documents of any proprietary or affiliate
38 companies of the Concessioner.
39

40
41 SEC. 9. FEES (a) For the term of this CONTRACT, the Concessioner, in
42 addition to the benefits to the Government provided by Section 5 hereof, shall
43 pay to the Secretary for the privileges granted herein, a franchise fee in the
44 amount of ZERO PERCENT (0%) of the Concessioner's gross receipts, as herein
45 defined, for the preceding year or portion of a year.
46

1 (b) The FEES or other payments that may be due as requirement of this
2 CONTRACT shall be due on a monthly basis at the end of each month and shall be
3 paid by the Concessioner in such a manner that payment shall be received by
4 the Secretary within fifteen (15) days after the last day of each month that
5 the Concessioner operates. The payment of any additional amounts due at the
6 end of the operating year as a result of adjustments shall be paid at the time
7 of submission of the Concessioner's Annual Financial Report. Over-payments of
8 any periodic amount due shall be offset against the amounts due. All payments
9 consisting of \$10,000 or more, shall be deposited electronically by the
10 Concessioner using the Treasury Financial Communications System.

11
12 (c) An interest charge will be assessed on overdue amounts for each 30-day
13 period, or portion thereof, that payment is delayed beyond the 15-day period
14 provided for above. The percent of interest charged will be based on the
15 current value of funds to the United States Treasury as published quarterly in
16 the Treasury Fiscal Requirements Manual.

17
18 (d)(1) The term "gross receipts" as used in this CONTRACT shall mean the
19 total amount received or realized by, or accruing to, the Concessioner from
20 all sales for cash or credit, of services, accommodations, materials, and
21 other merchandise made pursuant to the rights granted by this CONTRACT,
22 including gross receipts of subconcessioners as herein defined and commissions
23 earned on contracts or agreements with other persons or companies operating in
24 the Area, and excluding intracompany earnings on account of charges to other
25 departments of the operation (such as laundry), charges for employees' meals,
26 lodgings, and transportation, cash discounts on purchases, cash discounts on
27 sales, returned sales and allowances, interest on money loaned or in bank
28 accounts, income from investments, income from subsidiary companies outside of
29 the Area, sale of property other than that purchased in the regular course of
30 business for the purpose of resale, and sales and excise taxes that are added
31 as separate charges to approved sales prices, gasoline taxes, fishing license
32 fees, and postage stamps, provided that the amount excluded shall not exceed
33 the amount actually due or paid government agencies, and amounts received as a
34 result of an add-on to recover utility costs above comparable utility charges.
35 All monies paid into coin operated devices, except telephones, whether
36 provided by; the Concessioner or by others, shall be included in gross
37 receipts. However, only revenues actually received by the Concessioner from
38 coin-operated telephones shall be included in gross receipts.

39
40 (d)(2) The term "gross receipts of subconcessioners" as used in this CONTRACT
41 shall mean the total amount received or realized by, or accruing to,
42 subconcessioners from all sources, as a result of the exercise of the rights
43 conferred by subconcession contracts hereunder without allowances, exclusions
44 or deductions of any kind or nature whatsoever and the subconcessioner shall
45 report the full amount of all such receipts to the Concessioner within 10 days
46 after the last day of the concessioner's financial month or portion of a

1 month. Subconcessioners shall maintain an accurate and complete record of all
2 items listed in Subsection (d)(1) of this Section as exclusions from the
3 Concessioner's gross receipts and shall report the same to the Concessioner
4 with the gross receipts. The Concessioner shall be entitled to exclude items
5 listed in Subsection (d)(1) in computing fees payable to the Secretary as
6 provided for in Subsection (a) hereof and in Section 5.

7
8 (e)(1) Immediately following the end of each five year period of this
9 CONTRACT, the amount and character of the franchise fees described in this
10 Section and/or contributions to any account(s) described in Section 5 hereof
11 shall be reconsidered for a period of one hundred and eighty (180) days.

12 During this reconsideration period, the Secretary or the Concessioner may
13 propose adjustments to such franchise fees and/or contributions (which shall
14 reflect their position as to the then current probable value of the privileges
15 granted by this CONTRACT based upon a reasonable opportunity for profit in
16 relation to both gross receipts and capital invested) by mailing written
17 notice to the other party of such proposal before the end of the
18 reconsideration period.

19 If no such notices are duly mailed, the reconsideration shall end and the fees
20 and contributions shall remain the same until the occurrence of the next
21 reconsideration period.

22
23 (e)(2) If the Secretary or the Concessioner duly makes a proposal to adjust
24 the franchise fees and/or Section 5 contributions before the end of the
25 reconsideration period, they shall, commencing the day after the end of the
26 reconsideration period, undertake a good faith negotiation of the proposal.

27 If such negotiation does not result in an agreement as to adjustments to the
28 fees and/or Section 5 contributions within sixty (60) days of its
29 commencement, this negotiation period shall end and any adjustments determined
30 by the Secretary as of that time shall go into effect, provided that, the
31 Concessioner may extend this negotiation period by appealing such adjustments
32 to the Secretary.

33 Such appeal must be received by the Secretary within thirty (30) days after
34 the end of the sixty (60) day negotiation period. The appeal must be in
35 writing and include the Concessioner's detailed position as to the validity of
36 such adjustments to the fees and/or Section 5 contributions.

37 The Secretary, acting through a designee other than the official who
38 determined the adjustments from which the Concessioner duly has appealed,
39 shall consider the position of the Concessioner and related documents as
40 appropriate, and, if applicable, the written views of the mediator as
41 described below.

1 The Secretary shall then make a written final determination of appropriate
2 adjustments to franchise fees and/or Section 5 contributions consistent with
3 the probable value to the Concessioner of the privileges granted by this
4 CONTRACT based upon a reasonable opportunity for profit in relation to both
5 gross receipts and capital invested.

6
7 This final determination, or, where applicable, a determination as to
8 adjustments made at the end of the sixty (60) day negotiation period described
9 above from which the Concessioner fails to timely appeal, shall be conclusive
10 and binding upon the parties to this CONTRACT.

11
12 (e)(3) Adjustments to franchise fees and/or Section 5 contributions resulting
13 from the process described herein shall be retroactive to the commencement of
14 the applicable contract period for which a notice of reconsideration was
15 given.

16
17 Payments or contributions made in arrears shall include interest at a
18 percentage based on the current value of funds to the United States Treasury
19 as published quarterly in the Treasury Fiscal Requirements Manual.

20
21 The adjustments shall also be effective for the remaining term of this
22 CONTRACT, subject to the results of any further reconsideration periods.

23
24 If an adjustment to franchise fees and/or Section 5 contributions results in
25 higher fees and/or contributions, the Concessioner will pay all back franchise
26 fees due (with applicable interest) and make all Section 5 contributions due
27 (with applicable interest) at the time of the next regular franchise fee
28 payment or Section 5 contribution respectively.

29
30 If an adjustment results in lower fees and/or contributions, the Concessioner
31 may withhold the difference from future franchise fee payments or Section 5
32 contributions until the Concessioner has recouped the overpayment.

33
34 Adjustments to franchise fees and/or Section 5 contributions will be embodied
35 in an amendment to this Contract unless resulting from a determination of the
36 Secretary without the agreement of the Concessioner in which event a copy of
37 such determination shall be attached to this Contract and become a part hereof
38 as if originally incorporated herein.

39
40 During the pendency of the process described herein, the Concessioner shall
41 continue to make the established franchise fee payments and/or Section 5
42 contributions required by this CONTRACT.

43
44 (e)(4) In connection with an appeal to the Secretary hereunder, the
45 Concessioner may request mediation of appropriate adjustments to franchise

1 fees and/or Section 5 contributions by providing a written request for
2 mediation with its appeal to the Secretary as described above.

3
4 The mediation will be conducted by the American Arbitration Association (AAA)
5 or a similar organization chosen by the Secretary and take place in Washington
6 D.C. The purpose of the mediation shall be to provide for the Secretary's
7 consideration during such appeal the views of the mediator as to appropriate
8 adjustments of franchise fees and/or Section 5 contributions consistent with
9 the probable value to the Concessioner of the privileges granted by this
10 CONTRACT based upon a reasonable opportunity for profit in relation to both
11 gross receipts and capital invested.

12
13 The written views of the mediator shall be provided to the Secretary within
14 ninety (90) days of the request for mediation unless, because of extenuating
15 circumstances, the Secretary determines that an extension of this time period
16 is warranted.

17
18 If such views are not provided within this time period (or a duly extended
19 time period), the advisory mediation shall terminate and the Secretary shall
20 make a determination on the appeal as if the mediation had not been requested.
21 The Concessioner and the Secretary shall cooperate in good faith to permit the
22 views of the mediator to be provided within the applicable time period.

23
24 The Secretary and the Concessioner shall share equally the costs of the
25 services of the mediator and the mediation organization. The views of the
26 mediator are advisory only.

27
28 (e)(5) The mediator shall be selected by agreement between the Concessioner
29 and the Secretary from a list provided by the mediation organization within
30 ten (10) days of receipt.

31
32 Promptly following the selection, the Secretary shall schedule a date for the
33 mediation meeting to take place at which time the written positions of the
34 Concessioner and the Secretary shall be presented to the mediator along with
35 appropriate oral presentations unless advance submissions are agreed upon.

36
37 The mediator shall not have the power to compel the production of documents or
38 witnesses and shall not receive or take into account information or documents
39 concerning positions taken by the Concessioner or the Secretary in the
40 negotiations which preceded the request for mediation.

41
42 The mediator shall consider the written submissions and any oral presentations
43 made and provide his or her written views as described above to the Secretary
44 within ninety (90) days of the request for mediation, or, if applicable, by
45 the last day of a duly extended time period.
46

1 SEC. 10. ACCOUNTS (a) The Concessioner shall not be required initially to
2 establish and manage a Capital Account or Government Improvement Account.
3
4

5 SEC. 11. BOND AND LIEN (a) The Secretary may, in his discretion, require
6 the Concessioner to furnish a surety bond acceptable to the Secretary
7 conditioned upon faithful performance of this CONTRACT, in such form and in
8 such amount as the Secretary may deem adequate. As additional security for
9 the faithful performance by the Concessioner of all of its obligations under
10 this CONTRACT, and the payment to the Government of all damages or claims that
11 may result from the Concessioner's failure to observe such obligations, the
12 Government shall have at all times the first lien on all assets of the
13 Concessioner within the Area.
14

15
16 SEC. 12. TERMINATION (a)(1) The Secretary may terminate this CONTRACT in
17 whole or part for default at any time and may terminate this CONTRACT in whole
18 or part when necessary for the purpose of enhancing or protecting Area
19 resources or visitor enjoyment or safety.
20

21 (a)(2) Operations under this CONTRACT may be suspended in whole or in part at
22 the discretion of the Secretary when necessary to enhance or protect Area
23 resources or visitor enjoyment or safety.
24

25 (a)(3) Termination or suspension shall be by written notice to the
26 Concessioner and, in the event of proposed termination for default, the
27 Secretary shall give the Concessioner a reasonable period of time to correct
28 stated deficiencies.
29

30 (a)(4) Termination for default may be utilized in circumstances where the
31 Concessioner has breached any requirement of this CONTRACT, including, but not
32 limited to, failure to maintain and operate facilities and services to the
33 satisfaction of the Secretary in accordance with the Secretary's requirements
34 hereunder.
35

36 (b) In the event of termination or expiration of this CONTRACT, the total
37 compensation to the Concessioner for such termination or upon expiration shall
38 be as described in Section 13 ("Compensation") of this CONTRACT.
39

40 (c) In the event it is deemed by the Secretary necessary to suspend
41 operations under this CONTRACT in whole or in part to enhance or protect Area
42 resources or visitor enjoyment or safety, the Secretary shall not be liable
43 for any compensation to the Concessioner for losses occasioned thereby,
44 including but not limited to, lost income, profit, wages, or other monies
45 which may be claimed.
46

1 (d) To avoid interruption of services to the public upon the expiration or
2 termination of this CONTRACT for any reason, the Concessioner, upon the
3 request of the Secretary, shall:

4
5 (i) continue to conduct all operations hereunder for a reasonable
6 period of time to allow the Secretary to select a successor
7 concessioner, or

8
9 (ii) consent to the use by a temporary operator, designated by the
10 Secretary, of Concessioner Improvements and personal property, if any,
11 not including current or intangible assets, used in operations hereunder
12 upon fair terms and conditions, provided that the Concessioner shall be
13 entitled to an annual fee for the use of such improvements and personal
14 property, prorated for the period of use, in the amount of the annual
15 depreciation of such improvements and personal property, plus a return
16 on the book value of such improvements and personal property equal to
17 the prime lending rate, effective on the date the temporary operator
18 assumes managerial and operational responsibilities, as published by the
19 Federal Reserve System Board of Governors or as agreed upon by the
20 parties involved. In such circumstances, the method of depreciation
21 applied shall be either straight line depreciation or depreciation as
22 shown on the Concessioner's Federal income tax return.
23

24
25 SEC. 13. COMPENSATION (a) Just Compensation: The compensation described in
26 this Section shall constitute full and just compensation to the Concessioner
27 from the Secretary for all losses and claims occasioned by the circumstances
28 described below.

29
30 (b) CONTRACT expiration or termination where operations are to be continued:
31 (b)(1) If, for any reason, including CONTRACT expiration or termination as
32 described herein, the Concessioner shall cease to be required by the Secretary
33 to conduct operations hereunder, or substantial part thereof, and, at the time
34 of such event the Secretary intends for substantially the same or similar
35 operations to be continued by a successor, whether a private person,
36 corporation or an agency of the Government;

37
38 (i) the Concessioner shall sell and transfer to the successor
39 designated by the Secretary its Possessory Interest in Concessioner
40 Improvements and Government Improvements, if any, as defined under this
41 CONTRACT, and all other tangible property of the Concessioner used or
42 held for use in connection with such operations; and,

43
44 (ii) the Secretary will require such successor to purchase from the
45 Concessioner such Possessory Interest, if any, and such other property,
46 and to pay the Concessioner the fair value thereof.

1 (b)(2) No Possessory Interest or Concessioner Improvements exist as of the
2 effective date of this CONTRACT.
3

4 (b)(3) The fair value of Possessory Interest in Concessioner Improvements and
5 Government Improvements made after the effective date of this CONTRACT shall
6 be, unless calculated in accordance with Section 13(d) hereof, the original
7 cost of the improvements less straight line depreciation over the estimated
8 useful life of the asset according to Generally Accepted Accounting
9 Principles, provided, however, that in no event shall any such useful life
10 extend beyond the term of this CONTRACT. In the event that such Possessory
11 Interest is acquired by a successor, the successor will not be permitted to
12 revalue such Possessory Interest, or, alter its depreciation schedule or
13 useful life.
14

15 (b)(4) The fair value of merchandise and supplies shall be actual cost
16 including transportation.
17

18 (b)(5) The fair value of equipment shall be its book value.
19

20 (c) CONTRACT expiration or termination where operations are to be
21 discontinued: If for any reason, including CONTRACT expiration or termination
22 as described herein, the Concessioner shall cease to be required by the
23 Secretary to conduct operations hereunder, or a substantial part thereof, and
24 the Secretary at the time chooses to discontinue such operations, or a
25 substantial part thereof, within the Area, and/or to abandon, remove, or
26 demolish any Concessioner Improvements, if any, then the Secretary will take
27 such action as may be necessary to assure the Concessioner of compensation
28 for:
29

30 (i) its Possessory Interest in Concessioner Improvements and Government
31 Improvements, if any, in the applicable amount as set forth in Section
32 13(b) hereof; and
33

34 (ii) the cost to the Concessioner of restoring any assigned lands to a
35 natural condition, including removal and demolition, (less salvage) if
36 required by the Secretary; and
37

38 (iii) the cost of transporting to a reasonable market for sale such
39 movable property of the Concessioner as may be made useless by such
40 determination. Any such property that has not been removed by the
41 Concessioner within a reasonable time following such determination shall
42 become the property of the United States without further compensation
43 therefor.
44
45

1 (d) CONTRACT Termination for Default for Unsatisfactory Performance.

2 Notwithstanding any other provision of this CONTRACT to the contrary, in the
3 event of termination of this CONTRACT for default for failure to maintain and
4 operate accommodations, facilities and services hereunder to the satisfaction
5 of the Secretary in accordance with the Secretary's requirements, compensation
6 for Possessory Interest in Concessioner Improvements, if any, except for
7 Possessory Interest in Concessioner Improvements in existence before the
8 effective date of this CONTRACT, shall be as set forth in Section 13(b) hereof
9 or at book value, whichever is less.

10
11
12 SEC. 14. ASSIGNMENT, SALE OR ENCUMBRANCE OF INTERESTS

13 (a)(1) Pursuant to
14 this Section and 36 CFR Part 51, the Concessioner and/or any person or entity
15 which owns a controlling interest (as is or as may be defined in 36 CFR Part
16 51) in a Concessioner's ownership, (collectively defined as the "Concessioner"
17 for the purposes of this Section) shall not assign or otherwise sell or
18 transfer responsibilities under this CONTRACT or concession operations
19 hereunder, or the Concessioner's assets in the concession operation, nor sell
20 or otherwise assign, transfer or encumber (including, without limitation,
21 mergers, consolidations, reorganizations, other business combinations,
22 mortgages, liens or collateral) a controlling interest in such operations,
23 this CONTRACT, or a controlling interest in the Concessioner's ownership or
24 assets (as is or as may be defined in 36 CFR Part 51), without the prior
25 written approval of the Secretary.

26 (a)(2) Such approval is not a matter of right and is further subject to the
27 requirements of 36 CFR Part 51 (as are or as may be set forth therein). The
28 Secretary will exercise his discretion as to whether and/or under what
29 conditions a proposed transaction will be approved in accordance with
30 established policies and procedures.

31
32 (a)(3) Failure to comply with this provision or the procedures described
33 herein shall constitute a material breach of this CONTRACT for which this
34 CONTRACT may be terminated immediately by the Secretary without regard to the
35 procedures for termination for default described in Section 12 hereof, and,
36 the Secretary shall not be obliged to recognize any right of any person or
37 entity to an interest in this CONTRACT or to own or operate operations
38 hereunder acquired in violation hereof.

39
40 (b) The Concessioner shall advise the person(s) or entity proposing to enter
41 into a transaction which is subject to this Section that the Secretary shall
42 be notified and that the proposed transaction is subject to review and
43 approval by the Secretary. The Concessioner shall request in writing the
44 Secretary's approval of the proposed transaction prior to consummation and
45 shall promptly provide the Secretary all relevant documents related to the
46 transaction, and the names and qualifications of the person(s) or entity

1 involved in the proposed transaction. The relevant documents shall be as
2 described in 36 CFR Part 51 but shall also include other documents as the
3 Secretary may require.
4

5 (c) The Concessioner may not enter into any agreement with any entity or
6 person except employees of the Concessioner to exercise substantial management
7 responsibilities for operations hereunder or any part hereof without the
8 written approval of the Secretary given at least thirty (30) days in advance
9 of such transaction.

10
11 (d) No mortgage shall be executed, and no bonds, shares of stock or other
12 evidence of interest in, or indebtedness upon, the rights and/or properties of
13 the Concessioner, including this CONTRACT, in the Area, shall be issued
14 without prior written approval of the Secretary. Approval of such
15 encumbrances shall be granted only for the purposes of installing, enlarging
16 or improving, plant equipment and facilities, provided that, such rights
17 and/or properties, including possessory interests, or evidences of interests
18 therein, in addition, may be encumbered for the purposes of purchasing
19 existing concession plant, equipment and facilities. In the event of default
20 on such a mortgage, encumbrance, or such other indebtedness, or of other
21 assignment, transfer, or encumbrance, the creditor or any assignee thereof,
22 shall succeed to the interest of the Concessioner in such rights and/or
23 properties but shall not thereby acquire operating rights or privileges which
24 shall be subject to the disposition of the Secretary.
25
26

27 SEC. 15. APPROVAL OF SUBCONCESSION CONTRACTS (a)(1) All contracts and
28 agreements (other than those subject to approval pursuant to Section 14
29 hereof) proposed to be entered into by the Concessioner with respect to the
30 exercise by others of the privileges granted by this CONTRACT in whole or part
31 shall be considered as subconcession contracts and shall be submitted in
32 advance of execution to the Secretary for his approval and shall be effective
33 only if approved.
34

35 (a)(2) However, agreements with others to provide vending or other coin-
36 operated machines shall not be considered as subconcession contracts.
37

38 (a)(3) In the event any such subconcession contract or agreement is approved
39 the Concessioner shall pay to the Secretary, as part of the maintenance
40 requirements of this CONTRACT, within fifteen (15) days after the last day of
41 each month or portion of a year a sum equal to FIFTY PERCENT (50%) of any and
42 all fees, commissions or compensation payable to the Concessioner thereunder,
43 which shall be in addition to the fees payable to the Secretary on the gross
44 receipts of subconcessioners as provided for in Section 9 of this CONTRACT.
45
46

1 SEC. 16. INSURANCE AND INDEMNITY (a)(1) General. The Concessioner shall
2 save, hold harmless, defend and indemnify the United States of America, its
3 agents and employees for losses, damages or judgments and expenses on account
4 of fire or other peril, bodily injury, death or property damage, or claims for
5 bodily injury, death or property damage of any nature whatsoever, and by
6 whomsoever made, arising out of the activities of the Concessioner, its
7 employees, subcontractors or agents under this CONTRACT.

8
9 (a)(2) The types and amounts of insurance coverage purchased by the
10 Concessioner shall be approved by the Secretary.

11
12 (a)(3) The Concessioner shall annually, or at the time insurance is
13 purchased, provide the Secretary with a Statement of Concessioner Insurance
14 and Certificate of Insurance as evidence of compliance with this section and
15 shall provide the Secretary thirty (30) days advance written notice of any
16 material change in the Concessioner's insurance program hereunder.

17
18 (a)(4) The Secretary will not be responsible for any omissions or
19 inadequacies of insurance coverages and amounts in the event the insurance
20 purchased by the Concessioner proves to be inadequate or otherwise
21 insufficient for any reason whatsoever.

22
23 (b) Commercial Property Insurance. (b)(1) The Concessioner, will, in the
24 event of damage or destruction, repair or replace those buildings, structures,
25 equipment, furnishings, betterments and improvements and merchandise
26 determined by the Secretary to be necessary to satisfactorily discharge the
27 Concessioner's obligations under this CONTRACT and for this purpose shall
28 purchase commercial property insurance and provide fire and extended insurance
29 coverage on both Concessioner Improvements and Government Improvements in such
30 amounts as the Secretary may require during the term of the CONTRACT. Those
31 values currently in effect are set forth in Exhibit "E" to this CONTRACT.
32 This exhibit will be revised at least every three (3) years, or sooner if
33 there is an increase in value.

34
35 (b)(2) Such insurance shall provide for the Concessioner and the United
36 States of America to be named insured as their interests may appear. In the
37 event of loss, the Concessioner shall use all proceeds of such insurance to
38 repair, rebuild, restore or replace Concessioner Improvements and Government
39 Improvements, equipment, furnishings and other personal property hereunder, as
40 directed by the Secretary. The lien provision of Section 11 shall apply to
41 such insurance proceeds.
42
43

1 (c)(1) Additional Property Damage Requirements -- Government Improvements,
2 Property and Equipment. The following additional requirements shall apply to
3 structures all or any part of which are Governments Improvements as defined in
4 this CONTRACT.
5

6 1. Sprinkler Leakage - coverage for loss caused by leakage or discharge
7 of water or any other substance from within any automatic sprinkler
8 system or from collapse of tanks that are part of the sprinkler system,
9 hydrants, standpipes, etc.
10

11 (c)(2) The insurance policy shall contain a loss payable clause approved by
12 the Secretary which requires insurance proceeds to be paid directly to the
13 Concessioner without requiring endorsement by the United States.
14

15 (c)(3) The use of insurance proceeds for repair or replacement of Government
16 Improvements will not alter their character as Government Improvements and,
17 notwithstanding any provision of this CONTRACT to the contrary, the
18 Concessioner shall gain no Possessory Interest therein.
19

20 (d)(1) Public Liability. The Concessioner shall provide Comprehensive
21 General Liability insurance which shall mean liability insurance against
22 claims occasioned by actions or omissions of the Concessioner in carrying out
23 the activities and operation authorized hereunder.
24

25 (d)(2) Such insurance shall be in the amount commensurate with the degree of
26 risk and the scope and size of such activities authorized herein, but in any
27 event, the limits of such liability shall not be less than \$300,000 per
28 occurrence covering both personal injury and property damage. If claims
29 reduce available insurance below the required per occurrence limits, the
30 Concessioner shall obtain additional insurance to restore the required limits.
31 An umbrella or excess liability policy, in addition to a Comprehensive General
32 Liability Policy, may be used to achieve the required limits.
33

34 (d)(3) From time to time, as conditions in the insurance industry warrant,
35 the Secretary reserves the right to revise the minimum required limits.
36

37 (d)(4) All liability policies shall specify that the insurance company shall
38 have no right of subrogation against the United States of America or shall
39 provide that the United States of America is named an additional insured.
40

41 (d)(5) The commercial general liability policy shall provide the following
42 coverages at the same limits as required above unless other limits are
43 specified below:
44

1. Premises/Operations Liability - coverage for third party claims alleging personal injury and property damage arising from occupying property or activities underway on the property;
2. Products/Completed Operations - coverage for personal injury or property damage (i) occurring away from premises owned by or rented to the named insured and (ii) arising out of the named insured's product or the named insured's work after the named insured has relinquished possession of the product or completed or abandoned the work;
3. Contract Liability - coverage for liabilities assumed under a contract by the insured with another party (limits depending on contracts extant);
4. Medical Payments - to provide coverage for stipulated expenses caused by an accident regardless of fault or legal obligation on the insured's part to pay (insurance must exist, limits determined by the Concessioner).
5. Business Auto - coverage for personal injury and property damage arising out of the ownership, maintenance, or use of any automobile (per state requirements); and
6. Workers Compensation and Employer Liability - to provide coverage for immediate medical and surgical assistance to workers injured in occupational accidents. Also provides financial compensation to the worker for his or her loss of earnings if he or she is disabled as a result of such injuries and death benefits to his or her widow or widower and children if the injury is fatal (to be provided at the limits required by state law).

SEC. 17. PROCUREMENT OF GOODS, EQUIPMENT AND SERVICES In computing net profits for any purposes of this CONTRACT, the Concessioner agrees that its accounts will be kept in such manner that there will be no diversion or concealment of profits in the operations authorized hereunder by means of arrangements for the procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the Concessioner or by any other device.

1 SEC. 18. GENERAL PROVISIONS (a) Reference in this CONTRACT to the
2 "Secretary" shall mean the Secretary of the Interior, and the term shall
3 include his duly authorized representatives.
4

5 (b) The Concessioner is not entitled to be awarded or to have negotiating
6 rights to any Federal procurement or service contract by virtue of any
7 provision of this CONTRACT.
8

9 (c) Notwithstanding any other provision hereof, the Secretary reserves the
10 right to provide directly or through cooperative or other non-concession
11 agreements with non-profit organizations, any accommodations, facilities or
12 services to Area visitors which are part of and appropriate to the Area's
13 interpretive program.
14

15 (d) Any and all taxes which may be lawfully imposed by any State or its
16 political subdivisions upon the property or business of the Concessioner shall
17 be paid promptly by the Concessioner.
18

19 (e) No member of, or delegate to, Congress or Resident Commissioner shall be
20 admitted to any share or part of this CONTRACT or to any benefit that may
21 arise herefrom but this restriction shall not be construed to extend to this
22 CONTRACT if made with a corporation or company for its general benefit.
23

24 (f) This CONTRACT may not be extended, renewed or amended in any respect
25 except when agreed to in writing by the Secretary and the Concessioner.
26
27

28 IN WITNESS WHEREOF, the parties hereto have hereunder subscribed their names.
29

30 Dated at San Francisco, California this 21 day of FEBRUARY, 1998.
31
32

33 CONCESSIONER
34 Tonia Harvey
35

UNITED STATES OF AMERICA

36 BY Tonia Harvey
37 TITLE Concessioner
38
39

BY [Signature]
Regional Director
Pacific West Region
National Park Service

40 WITNESSES:

41 NAME [Signature]
42

43 ADDRESS PO Box 30 Baker, NV 89311
44

45 TITLE Boardman
46

NONDISCRIMINATION

SECTION I

REQUIREMENTS RELATING TO EMPLOYMENT
AND
SERVICE TO THE PUBLIC

A. EMPLOYMENT: During the performance of this concession CONTRACT the Concessioner agrees as follows:

(1) The Concessioner will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, or disabling condition. The Concessioner will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, or disabling condition. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Concessioner agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Secretary setting forth the provision of this nondiscrimination clause.

(2) The Concessioner will, in all solicitations or advertisements for employees placed by or on behalf of the Concessioner, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, national origin, or disabling condition.

(3) The Concessioner will send to each labor union or representative of workers with which the Concessioner has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Secretary, advising the labor union or workers' representative of the Concessioner's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) Within 120 days of the commencement of a contract every Government contractor or subcontractor holding a contract that generates gross receipts which exceed \$50,000 and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices, and procedures in accordance with the affirmative action program requirement.

(5) The Concessioner will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of

October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Concessioner will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to the Concessioner's books, records, and accounts by the Secretary of the Interior and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Concessioner's noncompliance with the nondiscrimination clauses of this concession CONTRACT or with any of such rules, regulations, or orders, this concession CONTRACT may be canceled, terminated or suspended in whole or in part and the Concessioner may be declared ineligible for further Government concession contracts/permits in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Concessioner will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Concessioner will take such action with respect to any subcontract or purchase order as the Secretary may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the Concessioner becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Secretary, the Concessioner may request the United States to enter into such litigation to protect the interests of the United States.

B. CONSTRUCTION, REPAIR, AND SIMILAR CONTRACTS: The preceding provisions A(1) through A(8) governing performance of work under this contract, as set out in Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, shall be applicable to this CONTRACT, and shall be included in all contracts executed by the Concessioner for the performance of construction, repair, and similar work contemplated by this CONTRACT, and for that purpose the term "CONTRACT" shall be deemed to refer to this instrument and to contracts awarded by the Concessioner and the term "Concessioner" shall be deemed to refer to the Concessioner and to contractors awarded contracts by the Concessioner.

C. FACILITIES: (1) Definitions: As used herein:

(i) Concessioner shall mean the Concessioner and its employees, agents, lessees, sublessees, and contractors, and the successors in interest of the Concessioner;

(ii) facility shall mean any and all services, facilities, privileges, accommodations, or activities available to the general public and permitted by this agreement.

(2) The Concessioner is prohibited from:

(i) publicizing facilities operated hereunder in any manner that would directly or inferentially reflect upon or question the acceptability of any person because of race, color, religion, sex, age, national origin, or disabling condition;

(ii) discriminating by segregation or other means against any person because of race, color, religion, sex, age, national origin, or disabling condition in furnishing or refusing to furnish such person the use of any such facility.

(3) The Concessioner shall post a notice in accordance with Federal regulations to inform the public of the provisions of this subsection, at such locations as will ensure that the notice and its contents will be conspicuous to any person seeking accommodations, facilities, services, or privileges. Such notice will be furnished the Concessioner by the Secretary.

(4) The Concessioner shall require provisions identical to those stated in subsection C herein to be incorporated in all of the Concessioner's contracts or other forms of agreement for use of land made in pursuance of this agreement.

SECTION II

ACCESSIBILITY

Title V, Section 504, of the Rehabilitation Act of 1973, as amended in 1978, requires that action be taken to assure that any "program" or "service" being provided to the general public be provided to the highest extent reasonably possible to individuals who are mobility impaired, hearing impaired, and visually impaired. It does not require architectural access to every building or facility, but only that the service or program can be provided somewhere in an accessible location. It also allows for a wide range of methods and techniques for achieving the intent of the law, and calls for consultation with disabled persons in determining what is reasonable and feasible.

No handicapped person shall, because a Concessioner's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance or conducted by any Executive agency or by the U.S. Postal Service.

PART A

DISCRIMINATION PROHIBITED

A Concessioner, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap:

1. Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

2. Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

3. Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

4. Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

5. Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

6. Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

7. Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

PART B

EXISTING FACILITIES

A Concessioner shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a Concessioner to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

LAND ASSIGNED

Land is assigned for housekeeping purposes in accordance with the boundaries shown on the map at Exhibit "C".

GOVERNMENT IMPROVEMENTS ASSIGNED
utilized pursuant to Section 4

Quantity	Property No.	Description	Value	Condition
1	24115	Food Freezer, Foster SN 6F225858	527	Fair
1	24116	Refrigerator, Foster SN 37156	845	Good
1	24118	Ice Cream Cabinet, Schaeffer SN6- 229-474	235	Fair
1	24120	Toaster, Four Slice, Toast Master	126	Good
1	24137	Table, Work, John Boos, SN 10719	250	Good
1	24138	Circulating Heat Oven, Wolf Range SN AFS-16681J68	1250	Good
1	24143	2-Door Refrigerator, Kock SN 4286460	1300	Good
1	24145	Propane Griddle, Wolf Range SN 16682068	650	Fair
1	24228	Office Safe, Underwriters SN 5241	480	Fair
1	24273	Meat Slicer, 10" Model 7510, Unviex	650	Good
1	24491	Sandwich Table, #RP-15-8E	1114	Excellent 1988
1	24492	Mixer, Hamilton Beach, 3 Spindle #950	403	Excellent 1988
1	24276	Freezer, Frigidaire, Model 64 UF D12	150	Fair
1	24277	Freezer, Marquette, Model SV-130	150	Fair

Quantity	Property No.	Description	Value	Condition
1	24304	Compact Grid Cuber, Icemaker SN R44601763	695	Excellent 1985
1	24310	Cash Register, DTS SN 1701F3189	566	Good
1		Showcase, Fetzer (Previous PN 24139)	300	Fair
6		Table, With Plastic Tops (\$32.00 ea)	193	Good
24		Chairs, Straight, Padded (\$7.50 ea)	180	Good
1		Mixer, Hamilton Beach	50	Fair
		Total of All Property	10,114	
		Condition and Value for the listed items, other than those dated, are based on inventories taken as early as 1983. Value does not reflect a depreciated value.		

GOVERNMENT IMPROVEMENTS

<u>Building Number</u>	<u>Description</u>	<u>Account Allocation</u>
		See Section 5(d)(2)

#6	Lehman Caves Visitor Center	\$2.100
----	-----------------------------	---------

Approximately 1,984 square feet
of the South end of the building
is used by the Concessioner to conduct
its operation. This includes storage.

Total Annual Allocation	\$2.100
Monthly Amount Due in Accordance with Section 5(d)(2)	

Exhibit "C" Approved effective FEB 21 1993

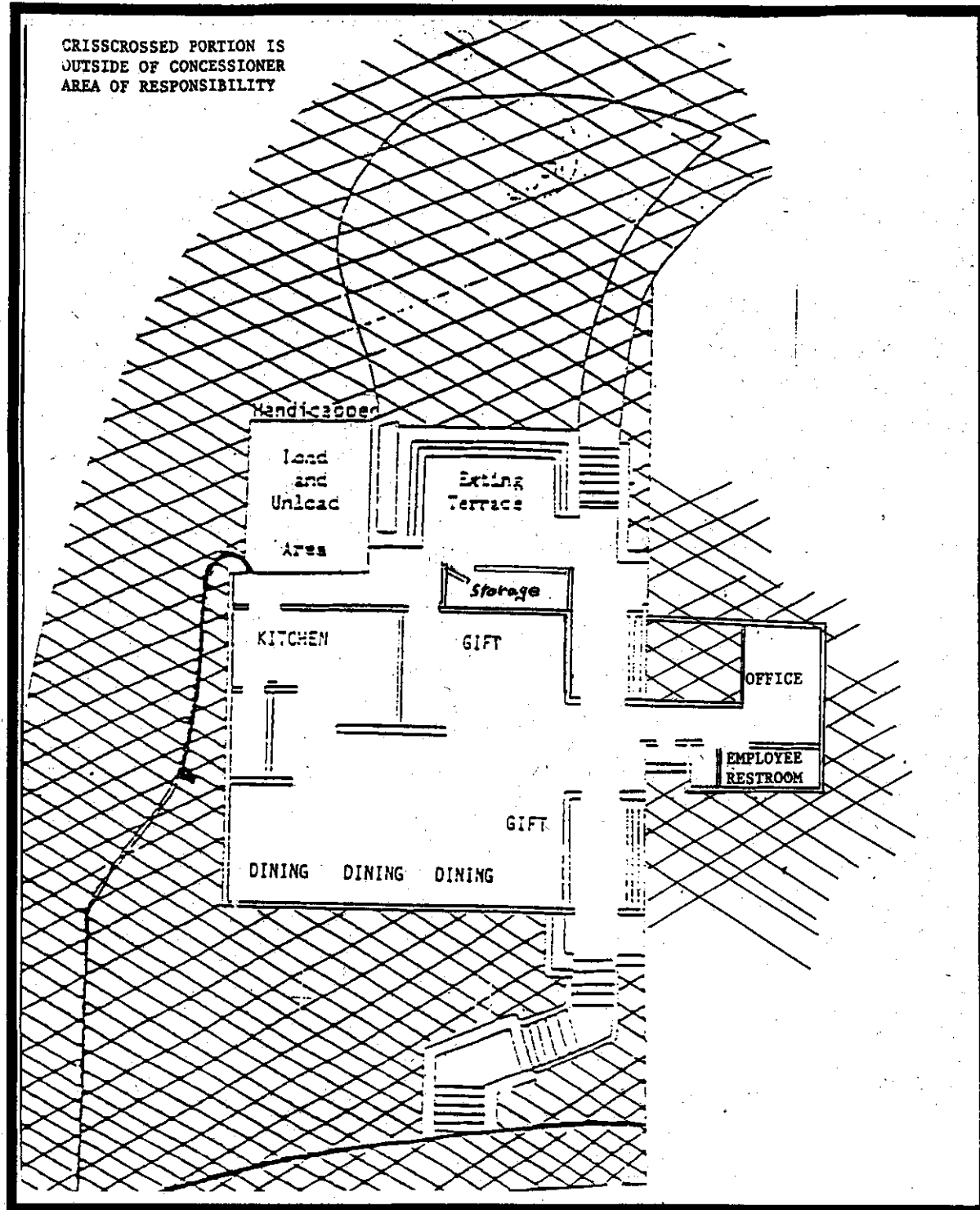
UNITED STATES OF AMERICA

BY: _____

Regional Director
Pacific West Region

AREA MAP ON THE FOLLOWING PAGE

(Map not to Scale)



CONCESSIONER IMPROVEMENTS
utilized pursuant to Section 6

NONE.

Exhibit D Approved Effective FEB 21 1998

CONCESSIONER

UNITED STATES OF AMERICA

BY:

Tonia Harvey

BY:

[Signature]
Regional Director
Pacific West Region

BUILDING REPLACEMENT COST FOR INSURANCE PURPOSES

ESTIMATES AS OF: July, 1997

EFFECTIVE UNTIL SUPERSEDED

The replacement costs set forth herein are established for the sole purpose of assuring property insurance coverage and shall not be construed as having application for any other purpose.

LEHMAN VISITOR CENTER

<u>BLDG #</u>	<u>BUILDING</u>	<u>SQ. FT.</u>	<u>REPLACEMENT COST</u>
---------------	-----------------	----------------	-----------------------------

6	Visitor Center	6,486	
---	----------------	-------	--

TOTAL INSURANCE REPLACEMENT VALUE FOR IMPROVEMENTS: \$ 670,533

Exhibit E Approved Effective FEB 21 1998

UNITED STATES OF AMERICA

BY: _____

Regional Director
Pacific West Region

AREA MAP IS AT EXHIBIT C

*** Great Basin National Park ***
**** Pacific West Region - National Park Service ****

EXHIBIT F
MAINTENANCE PLAN
Great Basin National Park

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I. INTRODUCTION

This Maintenance Plan between Tonia Harvey (hereinafter referred to as the "Concessioner") and Great Basin National Park, (hereinafter referred to as the "Area") National Park Service (hereinafter referred to as the "Service") shall serve as a supplement to Concession Contract CC-GRBA001-98 (hereinafter referred to as the "CONTRACT") but does not amend the authorization or alter the rights and liabilities of the parties to the CONTRACT. It delineates and specifies the maintenance responsibilities of the Concessioner and the Service with regard to those lands and facilities within the Area which are assigned to, or otherwise used by, the Concessioner for the purposes authorized by the CONTRACT.

In the event of any apparent conflict between the terms of the CONTRACT and this Maintenance Plan, the terms of the CONTRACT, including its designations and amendments, shall prevail.

This plan shall remain in effect until superseded or amended. It will be reviewed annually and revised as determined necessary by the Superintendent of the Area.

II. TERMS USED IN THIS PLAN

CONCESSIONER'S IMPROVEMENTS: Fully defined in the CONTRACT are buildings, structures, fixtures, equipment, and other improvements provided by the Concessioner for the purposes of this CONTRACT. (excluding improvements made to Government Improvements by the Concessioner).

GOVERNMENT IMPROVEMENTS: Fully defined in the CONTRACT are buildings, structures, fixtures, equipment, and other improvements constructed or acquired in whole or in part, by the government and provided by the government for the Concessioner's use.

ASSIGNED AREAS: Lands within the Area, as defined by the map at Exhibit "C" to the CONTRACT. The land contain facilities, improvements, roads, parking areas, and walkways used by the Concessioner. The Concessioner has specific responsibilities, defined below, regarding the condition of the land together with the facilities and improvements and landscapes on them. Any change in land use resulting from building modification, construction, or other activity will result in an immediate corresponding change in the land assignment.

EXTERIOR: With regard to structures, the foundations, supports and joists under the lowest subfloor, exterior walls and surfaces, interior load-bearing structure, roofs, and load-bearing structure of all porches, stairways, and other structural attachments. This also includes walkways, parking areas, and

other improvements, as well as the land, landscape and utilities within the assigned area of responsibility.

INTERIOR: With regard to structures, the area above the lowest sub-floor and inside the external walls that is not a part of the load-bearing structure including door and window frames, and those areas inside the roof which are not structurally loadbearing.

MAINTENANCE: With the regard to structures and facilities, the execution of procedures designed to correct physical deficiencies in a structure or facility that may cause either accelerated deterioration and loss of the facility or unsafe or hazardous conditions. Maintenance includes operational cyclic repair and rehabilitation work to provide a safe, sanitary and aesthetically pleasing environment for Area visitors and employees.

OPERATIONS: All aspects of activity by the Concessioner authorized under the CONTRACT. Operations include all services provided to the public and all non-public actions necessary to support those authorized services as defined in the CONTRACT.

REPAIR: The act of correcting an unsatisfactory physical condition. Repair is an aspect of maintenance, and the objective of repair is the same as the objective of the general act of maintenance as defined above in this section.

III. GENERAL STANDARDS FOR NATIONAL PARK CONCESSIONER FACILITIES

National Park Service Guideline for Concessions Management, NPS-48, offers general direction, expectations, and standards on all aspects of concession operations.

The intent of this Maintenance Plan is to ensure that an acceptable standard of facility maintenance is adequately defined and fully achieved. Both the Concessioner and the Service have specific responsibilities as outlined in the CONTRACT and this document.

IV. ANNUAL MAINTENANCE INSPECTIONS

The Area and Concessioner shall conduct an annual joint inspection/review of structures, facilities, and areas assigned to the Concessioner to determine what maintenance work is necessary, and if the facilities compliant with applicable State and Federal laws, regulations, guidelines, rules, codes, and policies. As a result of these inspections, and Annual Maintenance Program Proposal will be prepared by the Area. This review shall take place on a schedule to be established by the Area in consultation with the Concessioner.

Based upon the annual review, deficiencies noted on periodic evaluations (see Operating Plan), and needs identified by concessioner staff, the Concessioner shall prepare a list of maintenance needs and an annual maintenance program proposal to submit for Service approval by December 1 of each year. This program will list specific projects and the manner by which the Concessioner intends to execute its maintenance responsibilities during the following year.

V. CONCESSIONER'S RESPONSIBILITIES

The following sections identify the responsibilities of the Concessioner.

A. Improvements Assigned to the Concessioner:

The Concessioner shall maintain and repair Government and Concessioner Improvements assigned to the Concessioner except as noted under "Service Responsibilities."

The Concessioner's maintenance responsibilities include, but are not limited to: lands, landscaping, building, walkways, parking areas, pavement markings, fences, curbing, etc.); intrusion and fire alarm systems; interior and exterior lighting systems; fire suppression systems; utility and utility distribution systems; structural elements and surfaces (roofing, flooring, windows, doors, porches, etc. including hazard abatement); heating and cooling systems; and all installed fixtures and miscellaneous equipment.

The Concessioner will carry out general preventative and cyclic maintenance and emergency repair in a timely manner to ensure that all Improvements assigned to the Concessioner achieve the basic goals described by NPS-48 and other codes and guidelines.

B. Signs:

The Concessioner will install, maintain, and replace all interior and exterior signs relating to its operations and services within the assigned areas and directional signs outside assigned areas which relate specifically to concession operations. Examples include identifying location of facilities, operating services and hours, and the Concessioner's rules or policies.

The Concessioner shall ensure its signs are compatible with Area sign standards. Sign size, style, color, and location shall be submitted for Superintendent's approval prior to installation. No handwritten signs shall be permitted within the Concessioner's area of responsibility except on a short-term, interim basis.

The Service may install signs within the areas assigned to the Concessioner.

C. Litter and Garbage:

The Concessioner shall provide an effective system for the collection and disposal of garbage and trash within its areas of responsibility. The Concessioner shall keep assigned areas free of litter, debris, garbage. Refuse shall be stored in receptacles which are covered, waterproof and vermin-proof.

These containers will be kept clean, well maintained, and serviceable; sites will be free of spills, waste, and odors. To prevent pest attraction and breeding, all wet garbage from concession operations will be adequately bagged and tied or stored in sealed containers. Waste must not accumulate in trash containers to the point of overflowing. Trash containers shall be conveniently located and in sufficient quantity to handle the needs of the area. The Concessioner will place cigarette receptacles at locations within assigned areas as approved by the Superintendent.

Trash and garbage containers should be maintained in good serviceable condition and the Area Facility Manager immediately notified if containers need painting or repair.

All materials generated as solid waste must be removed from Area at the Concessioner's expense and disposed of in an appropriate manner in an approved site. Applicable state and/or county codes shall also be followed.

D. Grounds and Landscaping:

The Concessioner shall conduct their activities in a manner which minimizes impacts on the natural or cultural environment. Chemicals, pesticides, and toxic materials and substances will be used as a last resort in an Integrated Pest Management program and be pre-approved by the Service.

E. Parking Areas, and Walkways:

The Concessioner shall see that parking areas, curbing, sidewalks, and walkways within its assigned lands in a state of good repair and in a manner, which provides reasonable access to the general public, persons with physical disabilities, and emergency/service vehicles. In all assigned areas, the Concessioner shall sweep, on a recurring schedule to ensure that public areas are consistently clean and free of litter.

The Concessioner shall notify the Area if exterior lighting is required to provide the minimum necessary lighting for night-time walking in assigned walkway areas.

F. Utilities:

As systems or equipment need to be replaced, serious consideration shall be given to the use of products and technologies which reduce impacts, conserve resources, and improve efficiencies, including electric peak load shedding and the use of alternative fuels.

1. **Electrical:** The Concessioner shall immediately notify the Area of needed repair or replacement of any electrical system damage within assigned areas and damage occurring beyond the Concessioner assigned areas which results from negligence of the Concessioner and/or its employees while working or operating concessioner equipment.

The Concessioner will ensure that all electrical circuits under its control meet or exceed the standards of the National Electric Code.

The Concessioner shall make every effort to reduce its consumption of electrical energy.

2. **L.P. Gas Systems:** The Concessioner shall repair and maintain, according to NFPA codes, all L.P. gas systems in its assigned areas. This includes, but is not limited to, tanks, bottles, regulators, and piping.

The Concessioner will conduct and document, semi-annual inspections of its gas storage and distribution systems.

Placement of new or additional tanks must receive prior written Service approval. All gas installations must be inspected by an independent inspector at the Concessioner's expense.

3. **Water:** The Concessioner shall maintain all fixtures attached to the water system within the assigned area.
4. **Sewage:** The Concessioner shall immediately notify the Area of any sewage disposal repair in sewage lines, connections, disposal systems, and appurtenances within the Concessioner land assignment.

The Concessioner shall maintain, repair, and replace fixtures attached to the sewage disposal system (including sinks and dish washing equipment) within the assigned area..

The Concessioner shall implement water conservation measures as needs arise. As replacement of fixtures is needed, the Concessioner shall obtain and install low-flow and water conserving fixtures.

5. Telephone Service: The Concessioner shall contract directly with commercial telephone operators for phone service to its assigned facilities.
6. Seasonal Operations: The Concessioner will ensure that all water and sewer lines are drained, if required, and take all necessary steps to prevent damage from freezing. All water and sewer lines will be charged and tested for leaks prior to opening.

VI. SERVICE RESPONSIBILITIES

During the execution of any Service responsibilities indicated below, should the Service disrupt areas or lands within the Concessioner's assigned lands, the Service shall provide mitigative signing, barriers, and revegetative efforts as are needed.

The Service will interface with the Concessioner's maintenance program by executing the following responsibilities:

A. Improvements Assigned to the Concessioner:

The Area will physically maintain Government Improvements assigned to the Concessioner.

B. Signs:

The Area will install, maintain, and replace all regulatory signs that serve the interest of the Government. The Area will provide direction and assistance to the Concessioner during the design and installation of all approved signing.

C. Litter and Garbage:

The Area will ensure, either through its own actions or through those of a contractor, that reliable, regularly scheduled garbage

pickup is available in the Area, except within Concessioner assigned areas.

The Area will provide direction and guidance to the Concessioner regarding procedures and methods for keeping Concessioner refuse away from wildlife.

D. Grounds and Landscaping:

The Service will identify and periodically monitor hazardous trees in the Area.

E. Roads, Trails, Parking Areas, and Walkways:

The Service will maintain all roads, parking areas, curbing, sidewalks, walkways, and trails in the Park, except those within the Concessioner's area of responsibility as shown on the Land Assignment Maps. The Area will review the Concessioner's maintenance plans, provide standards as needed, review and approve proposed work where appropriate, and monitor Concessioner projects.

F. Utilities:

1. Electrical: Where currently provided or where duplicate efforts exist, the Service will provide electrical service to the Concessioner at rates established by the Service based upon anticipated actual operating costs or comparability, whichever is greater. The Service will allow commercial electrical service to be available if the provision of electrical service is available.

2. Water: The Service shall supply potable water. The Service will charge a fee to be determined annually through a calculation of anticipated costs or comparability, whichever is greater.

The Service will provide bacteriological monitoring and chemical analysis of potable water as required by applicable law or policy.

The Service will furnish water service, connections, meters, and shut-off valves. All piping and appurtenances down flow from the meter or as shown and/or described on Land Assignment Maps shall be the responsibility of the Concessioner to operate, repair, and maintain.

3. Sewage: The Service shall provide waste water treatment and collection services. The Service will charge a fee to be determined annually through a calculation of actual costs or comparability, whichever is greater.

The Service shall assume responsibility for waste water collection at the sewer main where major points of collection.

Dated at Great Basin National Park this 3rd day of December, 1997

CONCESSIONER

NATIONAL PARK SERVICE

Anna Harvey

Title: owner

Date: 12/3/97

Rebecca Miles
Superintendent
Great Basin National Park

EXHIBIT G
OPERATING PLAN
Great Basin National Park

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I. INTRODUCTION

This Operating Plan between Tonia Harvey, (hereinafter referred to as the "Concessioner"), Great Basin National Park, ("hereinafter referred to as the Area"), and National Park Service ("hereinafter referred to as the Service") shall serve as a supplement to the Concession Contract (CC-GRBA001-98) "CONTRACT", but does not amend the authorization or to alter the rights and liabilities of parties to the CONTRACT. It delineates and specifies the operational responsibilities of the Concessioner and the Service with regard to those lands and facilities within the Area which are assigned to, or otherwise used by the Concessioner for the purposes authorized by the CONTRACT.

The Concessioner is authorized to operate a food and beverage and gift shop service deemed necessary and appropriate by the Service.

In the event of any apparent conflict between the terms of the CONTRACT and this Operating Plan, the terms of the CONTRACT will prevail.

This plan will remain in effect until superseded or amended, at the discretion of the Service.

II. MANAGEMENT, ORGANIZATION AND RESPONSIBILITIES

A. Concessioner:

1. Will direct this concession operation and employ an on-site manager, who carries out the policies and directives of the Service as well as those authorized concessions facilities and services in the Area. To achieve an effective and efficient working relationship between the Concessioner and the Service, the Concessioner will designate one representative who has full authority to act as a liaison in all concession administrative/operational matters within the Area in the absence of the on-site manager.

B. Service:

1. Superintendent

The Superintendent manages the total Area operation, including concession operations. The Superintendent carries out the policies and directives of the Service, including management of concessioner contractors. Through Service representatives, the

Superintendent reviews, supervises, and coordinates concession activities related to the Area.

Monitoring concession contract compliance includes evaluating all concession operations and services, and reviewing and authorizing all rates, improvements to facilities, and construction.

2. Chief of Interpretation and Resources Management

a. The Chief of Interpretation and Resources Management, I&RM, is responsible for managing and coordinating planning and development activities, overseeing environmental compliance, and supervising the concession management activities within the park.

b. The Chief, I&RM, coordinates the functions of other Service divisions relating to concession operations. The Chief, I&RM, makes recommendations on all aspects of the Concessioner's operation to the Superintendent. He/she ensures necessary evaluations and inspections are performed, including those required by the United States Public Health Service (USPHS), safety, fire inspections, and the Concessioner Review Program. The Chief, I&RM, ensures all concessioner rates are approved based upon current comparability studies or applicable guidelines. He/she has authority from the Superintendent to make field decisions, which pertain to the concessions operation, and acts as liaison between the Concessioner and Superintendent.

The Superintendent is the Park Manager with responsibility for the total Area operation which includes the concession operation. The Superintendent has the responsibility to carry out the policies and directives of the Service, including concession contract/permit management.

The Superintendent, through the Chief of Interpretation and Resource Management (I&RM), will review, supervise, evaluate and coordinate the activities of the Concessioner as they relate to the Area. This will include review of the Equal Opportunity policy and Documented Safety Plan, inspection of facilities, approval of all rates charged in the Area, the appropriateness of items sold, approval of all services offered in the Area, evaluating all concession operations, authorizing all improvements to facilities and monitoring orientation and other activities involved in administering the Contract.

In addition the Chief, I&RM, reviews and coordinates the Concessioner's day-to-day activities; operational and maintenance activities; rate, service, and schedule changes; equal employment

opportunity and affirmative action plans; advertisements; construction proposals; annual financial reports; insurance coverage; and any other contract requirements.

c. Additional duties the Chief, I&RM, initiates, reviews, supervises, and coordinates the activities of personnel who provide public safety (law enforcement, fire, resource protection, interpretative services, emergency medical, and physical security) functions.

3. Facility Manager

Provides day-to-day supervision over all maintenance activities and operations, including any utilities provided by the Service. He/she serves as the direct line of communications to the Concessioner on routine maintenance matters.

4. The Administrative Officer

The Administrative Officer acts on behalf of the Superintendent in matters related to fiscal management associated with the concession activities, including billing for payment of franchise fees, utilities, lease fees, and personal services provided by the Service to the Concessioner.

III. CONCESSION OPERATIONS

The operation of accommodations, facilities, and services authorized by the Contract will conform to the evaluation standards set forth in the National Park Service Concessions Guideline (NPS-48) and with this Operating Plan.

A. OPERATIONAL EVALUATIONS

1. The Service and the Concessioner shall separately inspect and monitor concession facilities and services with respect to Service policy, applicable standards, authorized rates, safety, public health, impacts on cultural and natural resources, and visitor concerns and reactions. The Service will evaluate all services and facilities operated by the Concessioner to ensure public safety and health, identify maintenance and operating deficiencies, and ensure satisfactory services and accommodations for the general public within assigned areas of responsibility and in accordance with the Land Assignment Maps included in Exhibit C to the Contract.

2. The Chief, I&RM, will conduct periodic inspections of concessioner facilities and services to ensure conformance to operational standards established by NPS-48. The Concessioner will be contacted at the time of evaluations so that a representative of the Concessioner can accompany the Service evaluator.

3. The Chief, I&RM, will conduct at least one annual comprehensive safety and occupational health evaluation. The Concessioner will perform periodic interior and exterior safety inspections of all concession facilities.

4. The United States Public Health Service (PHS) environmental health consultant shall conduct periodic food service evaluations; inspections may be conducted without prior notice. The Concessioner will maintain and follow a formal, written food service sanitation self-inspection program. The Service will assist the concessioner in reviewing and updating the program as necessary.

5. The Service reserves the right, in accordance with the Concession Contract, to enter the Concessioner's facilities at any reasonable time for any inspection or when otherwise deemed necessary.

6. The Concessioner must be responsive to dates assigned for correction of deficiencies for correction of identified deficiencies.

The operation of accommodations, facilities, and services authorized by the Contract will conform to the evaluation standards set forth in the Service Concessions Guideline (NPS-48) and with this Operating Plan.

B. RATES

1. The Concessioner will submit written requests for all rate increases at least 45 days prior to anticipated implementation date. Requests for rate changes will be processed as expeditiously as possible. Should special conditions require a quicker than normal response, the Concessioner will clearly explain these conditions in writing in the request.

2. Such requests shall include pertinent information about the rate, product or service proposed. This includes but is not limited to: brand names, portions, etc. For food service requests, this will include an indication of which items will be regularly on the menu and which will be special or limited runs.

3. The Concessioner shall provide a range of service levels, qualities, and associated prices for all goods and services provided to the public under the Concessions Contract.

4. If the Concessioner offers an item or service at less than the optimum condition (because of unavailable amenities or condiments, or because of poor service or other conditions), the item or service will be discounted. This should not be construed to condone shortages or "running out" of items on a regular basis and should be used only in unavoidable situations.

5. The Service will approve, disapprove, or adjust rates and will inform the Concessioner of the reason for any disapproval or adjustment within 45 days of the rate request submittal. If the Concessioner requests a quicker response, the Service will attempt to accommodate this request; however, this will not be normal procedure. If a longer response period is needed, the Service will contact the Concessioner and negotiate a response date.

6. The Concessioner will prominently post all rates for goods and services provided to the visiting public.

C. SCHEDULE OF OPERATION

The Concessioner will provide authorized services for Area visitors from mid-April to mid-October. The operation will be open daily during this season, but the minimum operating hours will vary. The operating hours from the Memorial Day weekend to the Labor Day weekend will be a minimum of 8:00 a.m. to 5:00 p.m. The shoulder season will operate under the minimum operating hours of 8:30 a.m. to 4:00 p.m. Extensions of the season or operating hours do not need prior approval, but should be relayed verbally to the Superintendent.

D. STAFFING AND EMPLOYMENT

1. Concessioner Hiring

a. The Concessioner will hire a sufficient number of employees to ensure satisfactory services during shoulder as well as peak visitor seasons.

b. All employees dealing with the general public shall wear a personal name tag. Employees will project a hospitable, friendly, helpful, positive attitude, be capable and willing to answer visitors' questions, and provide visitor assistance. The Concessioner shall take appropriate steps to enforce these rules.

2. Service Employees and Families

Service employees or members of their families must receive approval from the Superintendent, in writing, prior to being employed by the Concessioner.

3. Training Program

a. The Concessioner will inform employees of Area regulations and requirements which affect their employment and activities while working in the Area. This will include training in the Concessioner's loss control procedures, accident reporting, emergency procedures, as well as employee rights if injured on the. Additional orientation, pertinent to the Area will be conducted by the Service with participation by the Concessioner.

b. The Concessioner will provide adequate, applicable training to each employee prior to job assignments and working with the public. The Service will provide orientation(s) to NPS-48, which emphasizes the operational review program, to managers on an annual basis.

c. The Concessioner will provide hospitality training for employees who have direct visitor contact and/or who provide visitor information.

d. The Service in coordination with the Concessioner will design and provide interpretive training for all employees who provide interpretive and/or informational services. The emphasis is to ensure appropriateness, accuracy, in the information given to the visitors in relationship to park themes.

IV. SCOPE AND QUALITY OF SERVICE

All services are to be provided in a consistent, quality manner. Service standards provided by the NPS Concessions Evaluation Program are considered service minimums. The Concessioner is expected to make every effort to exceed these standards. The Concessioner shall be responsible for monitoring their operations to assure that quality standards are met.

All vehicular equipment used by the Concessioner will be properly licensed and maintained in a safe operating condition. Federal and state requirements must be adhered to. The Concessioner will park such equipment, when not in use, in an orderly fashion in an area approved by the Service.

A. FOOD AND BEVERAGE SERVICE

1. All menus will maintain a price range that will accommodate the general range of park visitors.
2. The Concessioner will offer a range of food services, which provide for a wide variety of visitors in a cafe style setting. All menus will maintain a price range that will accommodate the general range of Park visitors.

B. MERCHANDISING

1. General: The retail service will comply with the guidelines established by NPS-48, "Concessioner Review Policy, Operational Performance Standards" and "Handcrafts, Gifts and Merchandise."
2. Gifts and Souvenirs: The Concessioner shall work with the Service to ensure the quality and the items are appropriate for the Area's theme. A range of gifts and souvenirs will provide visitors with opportunities to buy inexpensive as well as fine art items.
 - a. Handcraft: Items representing Area theme, including crafts by local and Indian artists, will be actively sought.
 - b. Gift Shop: Items offered, to greatest extent as possible will have a direct relationship to the Area, its environs, its history, or other related environmental or cultural topics. This will provide visitors with opportunities to buy memorabilia of their park visit while at the same time obtaining information or educational messages related to the Area's resources. Where possible and appropriate, informative tags will be attached to the sales item to show their relationship to the Area theme. Items of Area interpretive value and general value in environmental and cultural education will be prominently displayed.
 - c. Gifts and Souvenir: Items which are commonly found outside the Area and which do not relate to identified Area themes will not be composed of the major stocked items available for visitors.

3. Clothing: The Concessioner will be allowed to carry a selection of clothing to meet the needs of visitors who may have forgotten items or need emergency replacements. The intent of this visitor service is provide a narrow selection of items which nonetheless represents a range of price and quality levels.

V. REPORTS

A. Concessioner:

The following reports are the responsibility of the Concessioner:

1. Concessioner Annual Financial Report and Balance Sheet. Due by March 1 of each year.
2. Certificate of Insurance (Liability and Worker's Compensation).
3. Statement of Insurance (upon request by the Area, which will provide the appropriate forms).
4. Incident Reports: The Concessioner will immediately report to the Area: any visitor or employee injuries or illness requiring more than minor first aid treatment, any fire, any incident that affects the Area's resources, and any known or suspected violations of the law.

B. Service:

The following reports are the responsibility of the Service:

1. Concession Operational Performance Report will be performed shortly after the opening season and/or mid-way through the primary operating season.
2. Superintendent's Annual Concessioner Contract/Permit Compliance Report
3. NPS Concessioner Annual Overall Rating. Due by November 1 of each year.

VI. SANITATION

Concession employees will be trained by the Concessioner in proper sanitation methods to meet United States Public Health Service standards. The Service will provide assistance upon request. At a minimum, the Concessioner will provide sanitation training to food service employees at the start of their employment and at least once every five years.

Sanitary inspections may be made without prior notice by the U.S. Public Health Consultant Service, Nevada State Department of Health, White Pine County Health Department. The Concessioner shall adequately pass all sanitary or public health inspections.

VII. UTILITY RESPONSIBILITY

A. Concessioner: The Concessioner is responsible for contracting independent supplier to provide garbage collection and telephone service during the period the operation. The Concessioner is responsible for the direct payment to these suppliers.

Maintenance responsibilities are described in the Maintenance Plan.

B. Service: The Service will provide water and sewer, electrical, and fuel and heating oil, and propane, if applicable, services to the Concessioner's assigned facilities.

Rates for services provided by the Service shall be based on actual operating costs (including capital investments) or comparability to surrounding areas (including those used in establishing visitor rates), whichever is greater. The Concessioner will be billed for actual usage each month.

Maintenance responsibilities are described in the Maintenance Plan.

VIII. LOSS CONTROL PROGRAM

A. Per the Occupational Safety and Health Act of 1970 and the "Service Loss Control Management Program" Guideline NPS-50, the Concessioner will provide a safe and healthful environment for all of its employees and visitors.

B. The attached Documented Safety Program for Concessioner Activities (Appendix E) is incorporated into and made part of this Concessions Operating Plan. The Concessioner will update and revise this plan as needed or as requested by the Superintendent, and will submit revisions to the Superintendent for approval.

IX. LOST AND FOUND POLICY

Occasionally, visitors leave items behind in the cafe/gift shop that should be returned to them. Concession employees will deliver such items to the Area's information desk as soon as possible, and no later than the same day they are found, with the details concerning the property. When possible, the Concessioner shall attempt to identify the ownership of the found item and provide this information to the Area. The Service will attempt to locate the owner and return the property. If the owner cannot be located, the Service will dispose of the property in accordance with the Parks' Lost and Found Policy.

Concession employees will direct visitors to the Area's Information Desk within the visitor center concerning the reporting of lost property.

X. INTEGRATED PEST MANAGEMENT

The Concessioner shall notify the Superintendent in writing before any pest management action is undertaken. In keeping with safety and sanitation concerns, an Integrated Pest Management (IPM) approach will be undertaken to deal with any pest management problem. Washington Office approval is required before any pesticide use in the Area is authorized. Specific problems can be referred to the Area's Resource Management Specialist.

XI. COMPLAINTS

Any complaint that is received by the Concessioner will be reported to the Superintendent within one working day after it is received. Corrective action will be taken to correct any deficiency that is noted. The Area and Concessioner will evaluate the validity of all complaints and review them on a case-by-case basis to correct problem areas.

In order to initiate valid and responsive visitor comments, the following notice will be prominently posted in the concession operation:

"This service is operated by Lehman Caves Gift and Cafe, a concessioner by contract with the U.S. Government and administered by the Service. The Concessioner is responsible for conducting these operations in a satisfactory manner and reasonableness of prices are based on those prices charged by closely similar private enterprise outside the park for similar services with due consideration for appropriate differences in operating conditions. Such considerations may include length of

season, provision for peak loads, availability and cost of labor and materials, type of patronage, and other factors deemed significant.

Please address comments to:

Superintendent
Great Basin National Park
Baker, Nevada 89311"

Both the Area and the Concessioner will answer all written complaints after the situation has been investigated. The Area will send copies of written complaints or comments regarding Concessioner facilities to the Concessioner for investigation and response in a timely manner. The Concessioner will provide a copy of the response to the Superintendent. A copy of the Area's response will be forwarded to the Concessioner.

XII. ADVERTISEMENTS/PUBLIC INFORMATION

All written advertising matter proposed by the Concessioner must be reviewed by the Superintendent. Advertisements must include a statement that the Concessioner is authorized by the National Park Service, Department of the Interior, to serve the public in Great Basin National Park.

- A. Billboards and outdoor advertising are prohibited within Area.
- B. All signs will be professionally prepared and be well maintained and neat in appearance. No non-professional hand lettered signs will be permitted.
- C. When used, advertisements for employment must contain a statement that the company is an equal opportunity employer.

I. PROTECTION AND SECURITY

The Area will respond to emergency calls involving public health and safety, civil disturbances and violations of the law.

The Area will respond to all fires in concession facilities and grounds with available manpower and fire suppression equipment.

The Service must investigate all employee or visitor accidents and all law enforcement or security incidents and violations. Any injury sustained by a visitor or employee in a concession facility and/or all medical emergencies must be reported promptly to the Area. All employee

and/or visitor illness complaints will be promptly reported to the Area so that thorough investigating procedures can be completed as necessary.

The Concession must be secured each night after the last employee leaves. If a concession employee is the first person to arrive in the morning, he/she will leave the road gate locked behind him/her. The last Area employee to leave in the evening will close and lock the gate. If a Concession employee is still on the premises, he/she will leave the road gate closed and locked after passing through it.

II. DESIGN AND CONSTRUCTION

The Service must approve plans and specifications for all types of construction prior to the start of each project. Submittals should be made in a time frame which allows for all necessary reviews and clearances. Plans and specifications must be prepared in accordance with NPS-48, Design and Construction and NPS-10, Drafting Guideline. Construction codes to be followed include, but are not limited to, the most current editions of the Uniform Building Code, the National Plumbing Code, the National Electric Code, Uniform Federal Accessibility Standards, and NFPA's Life Safety Code. Where locally applicable codes exist that set a higher standard than national codes for a particular issue, then local codes will apply for that issue at the discretion of the Superintendent.

Further direction is provided in the Maintenance Plan.

III. HAZARDOUS WASTE PROGRAM

The Concessioner must comply with all federal, state and local regulations regarding hazardous waste.

The Concessioner will properly clean, mitigate, and remediate all unauthorized discharges of hazardous materials or non-hazardous chemical and biological products. Response shall be consistent with guidelines established within applicable Federal, state, and local regulations. When a spill, leak, or other release occurs, the Concessioner shall notify the Superintendent as soon as possible without impeding cleanup.

IV. RECYCLING AND CONSERVATION

A. Source Reduction:

The Concessioner will implement a source reduction program designed to minimize its use of disposable products in its operations. Reusable and recyclable products are preferred over "throwaways." Polystyrene and plastics will be used as little as possible, and then only polystyrene not containing chlorofluorocarbons. Where disposable products are needed, products will be used which have the least impact on the environment. The use of post-consumer recycled products whenever possible is encouraged.

B. Recycling and Beverage Container Programs:

The Concessioner shall implement a recycling program which fully supports the efforts of the Service. Products to be recycled include but are not limited to paper, cardboard, aluminum. A container deposit is required on all soft drink cans leaving the concession. Signs must be posted indicating that a container deposit has been charged and will be refunded upon return of the container.

C. Water and Energy Conservation:

The Concessioner will implement water and energy conservation measures. As new technologies are developed, the Concessioner will explore the possibility of integrating them into existing operations where there is potential for increased efficiency, reduced water or energy consumption, or reduced impacts on the environment.

V. VOLUNTEERS IN THE PARK (VIP)

The Concessioner will allow its employees to participate in the Park's VIP Volunteers in the Park program.

VI. SMOKING IN PUBLIC BUILDINGS

Concession facilities must comply with Service policy and Department of the Interior guidelines relative to Service areas. Smoking in the will not be allowed. The Concessioner will post notices as necessary. The Area will work with the Concessioner in identifying outside locations within the Concessioner assigned area where smoking will be allowed. The Concessioner will provide proper receptacles and

Dated at Great Basin National Park this 3rd day of December, 1997

CONCESSIONER

NATIONAL PARK SERVICE

Timia Harney

Title: owner

Date: 12/3/97

Rebecca Mills
Superintendent
Great Basin National Park